

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 19-0850V
UNPUBLISHED

MICHAEL J. MCFALL,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: June 12, 2020

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Influenza (Flu) Vaccine; Guillain-
Barre Syndrome (GBS)

Matthew F. Belanger, Faraci Lange, LLP, Rochester, NY, for petitioner.

Emilie Williams, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On June 10, 2019, Michael J. McFall filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq.,² (the “Vaccine Act”). Petitioner alleges that he developed Guillain-Barré syndrome (“GBS”) as a result of an influenza (“flu”) vaccination administered on November 22, 2016. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 8, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for GBS. On June 11, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$103,614.46 (consisting of \$90,000.00 for pain and suffering, \$1,268.52 for future unreimbursable medical expenses, and \$12,345.94 for past out-of-pocket unreimbursable medical

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

expenses. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$103,614.46 (consisting of \$90,000.00 for pain and suffering, \$1,268.52 for future unreimbursable medical expenses, and \$12,345.94 for past out-of-pocket unreimbursable medical expenses) in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

MICHAEL J. McFALL,)	
)	
)	
Petitioner,)	
)	No. 19-850V
v.)	Chief Special Master Corcoran
)	ECF
SECRETARY OF HEALTH AND HUMAN)	
SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On June 8, 2020, respondent filed a Rule 4(c) Report conceding that entitlement to compensation was appropriate under the terms of the Vaccine Act because petitioner has satisfied the criteria of the Vaccine Injury Table for Guillain-Barré syndrome (“GBS”) following administration of a flu vaccine. Thereafter, on the same date, Chief Special Master Corcoran issued a Ruling on Entitlement, finding that petitioner was entitled to vaccine compensation..

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$103,614.46. The award is comprised of the following: \$90,000.00 for pain and suffering; \$1,268.52 for future unreimbursable medical expenses; and \$12,345.94 for past out-of-pocket unreimbursable medical expenses. These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

The parties recommend that compensation provided to petitioner should be made through a lump sum payment of **\$103,614.46**, in the form of a check payable to petitioner. Petitioner

agrees.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

C. SALVATORE D'ALESSIO
Acting Director
Torts Branch, Civil Division

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

GABRIELLE M. FIELDING
Assistant Director
Torts Branch, Civil Division

/s/ Emilie F. Williams
EMILIE F. WILLIAMS
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington D.C. 20044-0146
Tel: (202) 305-0124
Emilie.williams@usdoj.gov

Dated: June 11, 2020